

July 19, 2002

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Yvonne Brathwaite Burke
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

FEDERAL LEGISLATIVE UPDATE

Congress is working toward its August recess. The House will recess at the end of next week, with the Senate slated to be in session for another week. Congress will return after Labor Day. Over the past two weeks, committee and floor time has been consumed primarily by the Administration's proposal to establish a Department of Homeland Security. However, there has also been some action on appropriations bills for Federal Fiscal Year (FFY) 2003 and activity on health and human services issues.

Food Stamp Quality Control Sanctions

As previously reported to your Board, on June 28, 2002, the United States Department of Agriculture (USDA) sent a letter to the State of California, which rejected the State's proposed settlement plan for its \$114.3 million Federal Fiscal Year (FFY) 2001 Food Stamp error rate penalty. The USDA's response would make the State liable for the full \$114.3 million, and would require the State to pay half of the total penalty by July 31, 2002.

Never before has a Food Stamp quality control (QC) penalty of this size been imposed on a state. In comparison, a total of \$104 million in QC penalties were imposed nationally during the three previous years. Moreover, according to a House Ways and Means report, dated October 6, 2000, less than \$10 million in penalties were collected since the early 1980s. The USDA historically has used its discretion to waive or reduce QC penalties. The State has notified the USDA that it will appeal the USDA's penalties.

The County's Washington Advocates have been working with the State and other county advocates to pursue legislative language to direct the USDA to use the Farm Bill's methodology for computing Food Stamp error rate penalties for FFYs 2001 and 2002 as well as for future years. If adopted, the State's FFY 2001 penalty would drop from \$114.3 million to an estimated \$16.7 million. One potential vehicle for such language would be the FFY 2003 Agriculture Appropriations Bill.

Unfortunately, the House Appropriations Committee did not include such language in its committee report on the Agriculture Appropriations bill. Instead, we understand that the Committee report includes language which notes that the Secretary of Agriculture has exercised her authority to adjust QC claims against states by adjusting FY 2001 QC claims for disproportionate numbers of earners and immigrants and that the "Committee appreciates the Secretary using her authority in this manner and encourages her to make appropriate use of this authority in the future." While the USDA did lower California's potential FY 2001 penalty from \$137.8 million to \$114.3 million due to its high number of earners and immigrants, it rejected the State's request to make much bigger reductions in the size of the State's penalty.

This week the County's Washington advocates focused their efforts on the Senate version of the FFY 2003 Agriculture Appropriations Bill. Board Chair Zev Yaroslavsky sent the attached letter (Attachment I) to Senator Feinstein requesting her help in including language in the bill which would reduce California's FFY 2001 Food Stamp QC penalty. Senator Feinstein serves on the Senate Appropriations Subcommittee on Agriculture. The letter was followed up by a July 16, 2002 meeting, which the County's advocates and State staff advocates convened with Senator Feinstein's staff.

We have been working with the Senator's staff in pursuing the language. The County's Washington advocates advise that Senate Agriculture Committee staff have raised objections to making the Farm Bill's error rate penalty methodology apply to FFYs 2001 and 2002 when the Farm Bill's conferees decided that the QC reforms should take effect in FFY 2003. The biggest political hurdle, however, is that only two states, Michigan (\$13.9 million) and Wisconsin (\$2.9 million), face FFY 2001 QC penalties exceeding \$1 million. Therefore, it is not a major issue for any other state. The FFY 2003 Agriculture Appropriations bill will be marked up in the Senate Agriculture Appropriations Subcommittee on July 23, 2002.

Appropriations

Last week, the Senate Appropriations Committee adopted a number of FFY 2003 appropriations bills containing County priorities, including the Commerce/Justice/State (CJS) and Labor/Health and Human Services (HHS) appropriations bills. Compared to previous years, the House and Senate are far behind schedule on appropriations bills,

partly due to the lack of a concurrent budget resolution which sets spending levels for both houses to follow. The House has passed only four of the 13 funding measures while the Senate has passed one. At this point, there are strong indications that Congress will return after the November elections to complete its work. Appropriations items of County interest include:

Commerce/Justice/State (CJS): Yesterday, the Senate Appropriations Committee passed its CJS Appropriations bill, which provides 18 percent more overall funding than the Administration's FFY 2003 budget request. However, the Committee adopted the Administration's proposal to eliminate the State Criminal Alien Assistance Program (SCAAP). Historically, the Senate has funded SCAAP at low levels to use as a bargaining chip when it enters conference negotiations with the House. For example, last year, the Senate included \$265 million in SCAAP funding, but conferees agreed to the House level of \$565 million. Senators Feinstein and Hutchison (R-TX) spoke in opposition to the cut. We expect that the House will maintain SCAAP funding at or close to the FFY 2002 funding level of \$565 million.

The Senate Appropriations Committee rejected the Administration's proposals to eliminate the Local Law Enforcement Block Grant and the COPS hiring programs by funding them at the FFY 2002 levels of \$400 million and \$330 million, respectively. The bill also would appropriate \$100 million for the COPS interoperability program to enable first responders to communicate with each other.

The CJS bill also provides \$400 million in election reform grants to enable states and localities to purchase voting equipment and train pollworkers.

Labor/Health and Human Services (HHS): Yesterday, the Senate Appropriations Committee also approved a FFY 2003 Labor/HHS Appropriations bill which increases overall funding by over seven percent. This bill funds discretionary health, workforce development, and human services activities. Neither the bill nor committee report have been released. As with the CJS Appropriations bill, the House is unlikely to act on this bill until after Labor Day.

Interior: The House passed its version of the FFY 2003 Interior Appropriations bill on July 17, while the Senate version is pending floor action. Funding for activities of County interest include:

- Land and Water Conservation Fund grants for state and local land acquisition is increased to \$150 million in the House bill, and is funded is at the current level of \$140 million in the Senate bill;

- Urban Park and Recreation Recovery funding is maintained at the current level of \$30 million in the House bill and is cut to \$10 million in the Senate bill;
- The President's new Cooperative Conservation Initiative is funded at \$26 million in the House bill while the Senate bill includes no funding; and
- An earmark of \$2.5 million for Federal land acquisition in the Santa Monica Mountains is provided in the House bill while the Senate bill includes no funding.

FFY 2002 Supplemental Appropriations: After months of negotiations, House and Senate appropriators reached agreement with the Administration on a \$28.9 billion supplemental appropriations bill. About \$20 billion of the total amount is allocated to the Defense Department and New York City recovery efforts. Of County interest, the bill also provides \$201 million in grants to first responders and \$100 million in emergency preparedness grants administered by the Federal Emergency Management Agency (FEMA). It also would provide \$400 million for election reform, pending the enactment of authorizing legislation (H.R. 3295), which currently is in a House-Senate conference committee. Both houses are expected to adopt the supplemental appropriations bill next week and send it to the President for his signature.

Medicaid

This week, 51 California House members sent the attached letter (Attachment II) to Health and Human Services (HHS) Secretary Tommy Thompson urging that HHS approve continuation of the State's Selective Provider Contracting Program (SPCP) waiver, which implements the SB 1255 supplemental hospital payment program. This program is an important revenue source for the State's safety net hospitals, including the County's. Nearly the entire delegation signed the letter. Rules Committee Chairman David Dreier also spoke on the House floor recently about his concerns over the Administration's actions on the Upper Payment Limit (UPL) rule.

SCAAP Reauthorization

Last week, the Senate Judiciary Committee adopted S. 862, a bill to reauthorize the SCAAP program, which is sponsored by Senator Feinstein and cosponsored by Senator Boxer. The bill authorizes \$750 million a year for SCAAP through FFY 2006. Adopted by voice vote and with no debate, the bill does not change the substance of the program. Current law authorizes such sums as may be necessary for SCAAP. Funding for SCAAP is appropriated annually under the Commerce/Justice/State appropriations bill.

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We will continue to keep you advised of any new developments.

DEJ:GK
RT:TJ:MT:md

Attachments

c: Executive Officer, Board of Supervisors
County Counsel
All Department Heads
Legislative Strategist